

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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LEROY VASSEL,

Plaintiff,

Case No. 22-cv-1283-pp

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED  
WITHOUT PREPAYING FILING FEE (DKT. NO. 4) AND ORDERING  
PLAINTIFF TO FILE AMENDED COMPLAINT**

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The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. At the same time, he filed a motion for leave to proceed without prepaying the filing fee, which was not completed using this court's standard form. Dkt. No. 2. The court ordered the plaintiff to re-file his request on the correct form, dkt. no. 3, and the plaintiff complied, dkt. no. 4.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The plaintiff's request indicates that he is not employed, he is not married, and he has no dependents he is

responsible for supporting. Dkt. No. 4 at 1. The plaintiff's income is \$500 per month from a part time job, id. at 2, 4, and his monthly expenses are \$500 (\$400 household expenses, \$100 transportation), id. at 2-3. The plaintiff does not own his home, a car or any other property of value, and he has no cash on hand or in a checking or savings account. Id. at 3-4. The plaintiff states, "I live with my sister. I have been working part time for the past couple of months. That money pays for transportation and food. I have nothing left over and nothing to contribute to my sister for monthly bills. Id. at 4. The plaintiff has demonstrated that he cannot pay the \$350 filing fee and \$52 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The complaint does not provide sufficient information for the court to make a determination as to whether the case is frivolous. The complaint does not state a claim at all—it merely indicates that the plaintiff wants to "obtain[] judicial review of a decision(s) of the Defendant adverse to the Plaintiff," that

the “Plaintiff complains of a decision(s) which adversely affects the Plaintiff in whole or in part,” and that “[t]his decision(s) has become the final decision of the Commissioner for purposes of judicial review.” Dkt. No. 1 at 1. The complaint then states that the plaintiff has exhausted his administrative remedies, that this court has jurisdiction and that the plaintiff seeks judicial review and “the entry of judgment for such relief as may be proper, including a reversal and award of benefits, remand for further proceedings, and for an award of costs.” Id. 1-2.

The complaint does not inform the court of the reason or reasons the plaintiff believes the Commissioner’s adverse decision was wrong and on what basis he is appealing the Commissioner’s decision. Lacking this information, the court cannot conclude whether there may be a basis in law or in fact for the plaintiff’s appeal of the Commissioner’s decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i). The court will allow the plaintiff to file an amended complaint correcting the issues addressed in this order. The plaintiff may want to look for guidance to the Complaint for Review of a Final Decision by the Commissioner of the Social Security Administration, which is available on this court’s website, [www.wied.uscourts.gov](http://www.wied.uscourts.gov) under Forms/Social Security/Complaint-Social Security.

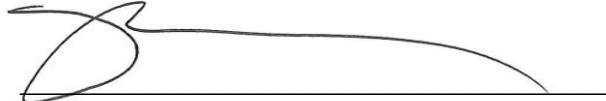
The court **GRANTS** the plaintiff’s motion for leave to proceed without prepaying the filing fee. Dkt. No. 4.

The court **ORDERS** that by the end of the day on **November 28, 2022**, the plaintiff must file an amended complaint that informs the court of the basis

upon which he is appealing the Commissioner's denial of benefits. If the plaintiff does not file an amended complaint by the end of the day on November 24, 2022, the court may dismiss this case.

Dated in Milwaukee, Wisconsin this 14th day of November, 2022.

**BY THE COURT:**

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**